

Debra P. Hackett  
Clerk, U.S. District Court  
15 LEE ST STE 206  
MONTGOMERY AL 36104-4055

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July 15, 2008

**Appeal Number: 08-11500-J**  
Case Style: Daniel Strickland v. Warden Boyd  
District Court Number: 07-00979 CV-F-N

TO: Debra P. Hackett

CC: Daniel Strickland (AIS 201890)

CC: John M. Porter

CC: Administrative File

**United States Court of Appeals**

Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

**Thomas K. Kahn**  
Clerk

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The enclosed certified copy of this Court's order denying the application for a Certificate of Appealability is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Also enclosed is the record on appeal, which consists of:

Sincerely,

THOMAS K. KAHN, Clerk

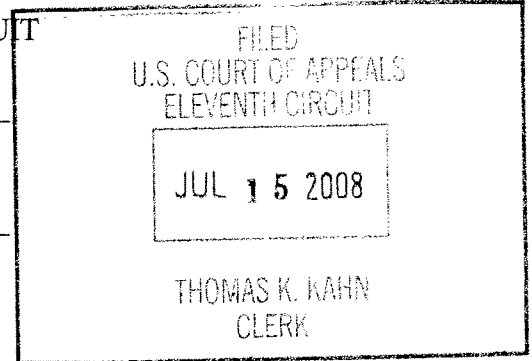
Reply To: Deborah Hall (404) 335-6189

Encl.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-11500-J



DANIEL STRICKLAND,

Petitioner-Appellant,

versus

WARDEN BOYD,  
TROY KING, Attorney General of the State of Alabama,

Respondents-Appellees.

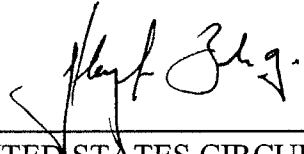
Appeal from the United States District Court for the  
Middle District of Alabama

ORDER:

Appellant moves for a certificate of appealability from the district court's dismissal of his pro se habeas corpus petition, 28 U.S.C. § 2254, as untimely. To merit a certificate of appealability, appellant must show that reasonable jurists would find debatable both (1) the merits of an underlying claim and (2) the procedural issues he seeks to raise. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 478, 120 S.Ct. 1595, 1600-01, 146 L.Ed.2d 542 (2000). The district court properly dismissed appellant's § 2254 petition as time-barred because appellant filed it after the expiration of the one-year statute of limitations and failed to demonstrate his actual innocence. 28

U.S.C. § 2244(d)(1); Arthur v. Allen, 452 F.3d 1234, 1244-47 (11th Cir. 2006). Since appellant has failed to satisfy Slack's test, his motion for a certificate of appealability is DENIED.

Accordingly, appellant's motion for leave to proceed on appeal in forma pauperis is DENIED AS MOOT.

  
UNITED STATES CIRCUIT JUDGE